RECENT CASES.

ACTION FOR POSSESSION OF LAND—ADVERSE POSSESSION—TAKING SUCCESSIVE POSSESSION.—JENNINGS v. WHITE, 51 S. E. 799 (N. C.).—*Held*, that where the deed to one claiming title to land by adverse possession did not cover the land, the possession thereof by his grantor could not be tacked on his possession for the purpose of showing a continuous adverse possession for the statutory period.

Adverse possession must be continuous and when one seeks to unite to his possession the possession of prior occupants the several titles must be connected by purchase or descent. Without some privity between the successive occupants, the several possessions cannot be tacked together so as to make continuity of possession. *Smith v. Reich*, 87 Hun. (N. Y.) 287. Different entries, at different times, by different persons, between whom no privity exists, are but a succession of trespasses. *Rose v. Goodwin*, 88 Ala. 390. Privity must be shown to have existed between them. *Wheeler v. Moody*, 9 Tex., 372. And deed must be shown to tack possession of successive tenants. *Johnson v. Nash*, 15 Tex. 419. Each succeeding occupant must show title under his predecessor and his possession must be referable to the original entry. *Witt v. St. Paul & Northern Ry. Co.*, 38 Minn. 122; but evidence of omission by mistake in drafting deed embracing land in question is admissible to characterize the possession of grantor and grantee. *Smith v. Chapin*, 31 Conn. 530.

BOYCOTT—INJUNCTION—ACTUAL INJURY.—VAN ILER PLAAT v. UNDERTAKERS' AND LIVERYMEN'S ASSOCIATION OF PASSAIC, 62 ATL. (N. J.) 453.—Plaintiff claimed to be an educated embalmer and undertaker and that for two months he had been ready and willing to engage in business in Paterson, N. J. He also alleges that defendant association and its members have been and are preventing him by boycotting him and refusing to admit him to membership and also refusing to hire to him hacks or hearses or to sell him coffins or supplies. It is admitted that he neither has nor owns appliances of any kind and that, at no time, has he had any corpse to care for; also that the association has adopted a constitution and by-laws and attempted to enforce them against him and that this amounts to criminal conspiracy. Plaintiff asks for an injunction and other relief.

Held, that as plaintiff had no business or establishment, even if the alleged attempt to boycott has been made or threatened, plaintiff has suffered no damage, nor, from evidence set forth, is he likely to. It was not proven that there was any attempt to enforce the clause against him and though there were an attempt, even if it were unlawful, the action of the court would not be incited unless the personal or property rights of plaintiff were affected.

CHARITABLE TRUSTS—CY PRES DOCTRINE.—MACKENZIE v. TRUSTEES OF PRESBYTERY OF JERSEY CITY, 61 ATL., (N. J.) 1027.—A trust for public worship and instruction of indefinite number of persons according to the Presby-

terian faith, *held* to be a good charitable trust and enforceable either exactly, or under the doctrine of *Cy Pres*.

A trust for a public charitable purpose will be sustained and enforced, although there may be such indefiniteness in the declaration and description as would render void an express private trust. *Pomeroy Equity Jurisprudence*, (6th ed.) p. 585. In case of uncertainty, beneficiaries can always be identified by extrinsic evidence. *Hinckley v. Thacher*, 139 Mass. 477. A gift to "missionary, educational and benevolent enterprises" may be held valid as a charitable use. *Thomson v. Norris*, 20 N. J. Eq. 5; but not a devise to be applied solely to "benevolent" purposes, such not being considered charity. *Chamberlain v. Stearns*, 111 Mass. 267. The *Cy Pres* doctrine has been the subject of much discussion and criticism in this country, and in some states it has been altogether repudiated. *White v. Fisk*, 21 Conn. 31. But the tendency of modern decisions is to follow this doctrine as restricted in *Jackson v. Phillips*, 14 Allen 539. By the above decision New Jersey formally adopts the doctrine of *Cy Pres*, which had never been approved before in that state. *Bispham's Equity*, sec. 130.

CHARITABLE TRUSTS—UNCERTAINTY.—HEGEMAN V. ROOME, 62 ATL. REP. 392 (N. J.).—*Held*, that a bequest to a trustee for the purpose of making such distribution among religious, benevolent and charitable objects as he may select is void, as vague and indefinite.

Charitable trusts are in their very conception uncertain. *Pomeroy's Eq. Jur.* (6th ed.) sec. 987; *Coggshell v. Pelton*, 7 Johns Ch. 292; *Saltonstall v. Sanders*, 11 Allen 446; *Jackson v. Phillips*, 14 Allen 539. The decisions are in utter conflict in limiting this uncertainty to reasonable bounds. Compare *Vesey v. Tamson*, 1 S. & S. 69; and *Dolan v. Dolan*, L. R. 5 Eq. 60; *Treats App.*, 30 Conn. 113. In England if the trustee may at his discretion apply the property to a charity or not the gift will fail. *Morice v. Bishop of Durham*, 9 Ves. 404. The purpose must be sufficiently definite to allow the court to exercise control over the trustee. *Nash v. Morly*, 5 Beav. 177. Thus if the purposes are discretionary or alternative the trust is void. *Williams v. Kershaw*, 5 Cl. & F. 111; *Vesey v. Tamson, supra*. These principles are universally recognized where charitable trusts are supported in this country. *Rabeh v. Emerson*, 105 Mass. 431. But many courts require greater certainty than is required in England. *White v. Ristel*, 22 Conn. 31. In New York the doctrine has no place and funds dedicated to charitable purposes are administered through corporate agencies sanctioned by legislative authority. *Bascom v. Albertson*, 34 N. Y. 603; *Burrill v. Boardman*, 43 N. Y., 254.

CONTRACTS—RESTRAINT OF TRADE—VALIDITY.—MERRIMAN V. COVER AND OTHERS, 51 S. E. 817 (VA.).—*Held*, that restraint is reasonable when it is such only as to afford a fair protection to the interests of the party in favor of whom it is given, and not so large as to interfere with the public.

At one time it was considered that the whole of the United States or an entire state was an extent of space too extensive to be reasonable. *More v. Bonnet*, 40 Cal. 251. *Nobles v. Bates*, 7 Cow. 307 (N. Y.). This doctrine has been overruled by modern authorities, which lay more stress on the particular circumstances of each case. *Diamond Match Co. v. Roeber*, 35 Hun. (N. Y.) 421; *Beal v. Chase*, 31 Mich. 490. So it was held to restrict the marble business within a county was not unreasonable. *Cobbs v. Niblo*, 6 Ill. App.